

COUNTY OF LOS ANGELES - DEPARTMENT OF MENTAL HEALTH
BUREAU OF STANDARDS, PRACTICES AND CONDUCT

August 5, 2003

TO: District/Sector Chiefs
Program Managers

FROM: Toni DelliQuadri, M.S.W., M. P. A. 

SUBJECT: **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
(HIPAA) AND DISCLOSURE OF PROTECTED HEALTH INFORMATION**

Recently, there has been considerable discussion regarding the interpretation of HIPAA regulations, particularly pertaining to disclosure of Protected Health Information between the Department of Mental Health (DMH) directly operated and contract providers. In response to this concern, the Department held a meeting on July 14 with selected Short-Doyle contractors, Association of Community Human Service Agencies (ACHSA), legal counsel and the County Privacy Officer. Two draft documents were distributed at the meeting:

- Letter from Dr. Southard that addresses these concerns.
- Legal Counsel position on Disclosure of Protected Health Information for Treatment Purposes.

Following the meeting, attendees were asked to provide comments and feedback. At this time, we are distributing the documents in final form for your reference and use (attached).

If you have questions please contact Grant Lee at (213) 639-6391. Thank you.

TDQ:GL

Attachments

c: Marvin J. Southard, D.S.W.
Susan Kerr
Roderick Shaner, M.D.
Deputy Directors

COUNTY OF LOS ANGELES

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Director

SUSAN KERR
Chief Deputy Director

RODERICK SHANER, M.D.
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Reply To: (213) 738-2881
Fax: (213) 738-6455

July 31, 2003

TO: DMH Short-Doyle Contract Providers

FROM:

Marvin J. Southard
Marvin J. Southard, D.S.W.
Director of Mental Health

SUBJECT: **HIPAA IMPLEMENTATION: PROVISION OF COORDINATED,
SEAMLESS, QUALITY MENTAL HEALTH SERVICES**

As you are aware, the Department of Mental Health is committed to provision of a seamless, coordinated system of care designed to better the lives and well being of our constituents and community. I have appreciated the collaborative association with each of you as we strive to provide world class service. In order to assure that we continue to work together to provide full access to services and meet the needs of our community, I am eager to allay concerns expressed by some providers about the interpretation of Health Insurance Portability and Accountability Act (HIPAA) Privacy Regulations.

The Los Angeles County Department of Mental Health (LACDMH) is a covered health care entity as defined by the HIPAA Privacy Regulations. Since the April 14, 2003 HIPAA Privacy Regulations compliance date, we have experienced difficulties with sharing Protected Health Information (PHI) between LACDMH-contracted health care providers who render services to Short-Doyle/Medi-Cal patients/clients, and LACDMH-directly-operated providers of these same services for treatment purposes.

The HIPAA Privacy Regulations permit the use and disclosure of PHI for the purposes of treatment, payment and healthcare operations. You may disclose, without the individual's authorization, the health information requested by LACDMH under the Privacy Rule's definition of "treatment."

The HIPAA Privacy Regulations recognize that sharing of PHI for treatment purposes is important to the provision of seamless, coordinated and quality mental health services to our patients/clients. The Department's implementation of policies and practices is based on legal advice regarding the HIPAA regulations. We request your cooperation and seek to maintain the excellent interagency communications that we have developed through years of working together.

DMH Short-Doyle Contract Providers
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For your use and reference, we have enclosed a memorandum from our legal counsel which defines and explains the basis for disclosures of PHI for treatment purposes under the HIPAA Privacy Regulations. If you have any further questions, please contact Toni DelliQuadri at (213) 738-2881.

MJS:TDQ:GL:bjh

Enclosure

c: Roderick Shaner, M.D.
Susan Kerr
Deputy Directors
County Counsel

W:MEMOS/LETTERS#4MMO 10 - HIPAA IMP - GL



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LLOYD W. PELLMAN
County Counsel

June 12, 2003

TO: DEPARTMENT OF MENTAL HEALTH
SHORT DOYLE CONTRACT PROVIDERS

FROM: RICHARD K. MASON
Principal Deputy County Counsel
Public Services Division

RE: **Disclosure of Protected Health Information for Treatment Purposes**

The Health Insurance Portability and Accountability Act ("HIPAA") Privacy Regulations, which apply to covered health care providers (as well as health plans and health care clearinghouses), protect the privacy of individually identifiable health information, or Protected Health Information ("PHI"). The HIPAA Privacy Regulations provide that covered health care providers may use or disclose PHI for treatment, payment and health care operations purposes without individual's authorization.

The HIPAA Privacy Regulations broadly define "treatment" to include consultation and referrals, as well as "the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party."¹ A covered health care provider may use or disclose PHI for its own treatment purposes, or for treatment activities of another health care provider.² In addition, a health care provider working with a third party can share PHI for treatment purposes.³ For example, the HIPAA Privacy Rule's broad definition of "treatment" allows a health care provider to offer or coordinate social, rehabilitative, or other services that are associated with the provision of health care.⁴

¹ 45 C.F.R. § 164.501.

² 45 C.F.R. § 164.506(c), (1)-(2).

³ *Standards for Privacy of Individually Identifiable Health Information*, 65 Fed.Reg. 82497, 82626 (December 28, 2000).

⁴ 65 Fed. Reg. at 82628.

The HIPAA Privacy Regulations generally require covered entities to take reasonable steps to limit the use or disclosure of, and request for, PHI to the minimum necessary to accomplish the intended purpose. The minimum necessary rule, however, does not apply to disclosures to or requests by a health care provider for treatment purposes.⁵

The Los Angeles County Department of Mental Health ("DMH") is a covered health care provider under the HIPAA Privacy Regulations. The DMH contracted health care providers are also HIPAA-covered health care providers. The case managers at the DMH directly operated facilities need PHI to carry out their treatment activities. These parties may share PHI for treatment purposes without the individual's authorization. Recognizing the importance of sharing PHI for treatment, the HIPAA Privacy Regulations allow for such disclosure between health care providers, or between a health care provider and a third party.

In addition, DMH engages in referral activities through the County's multidisciplinary programs (e.g., Children System of Care, Wraparound). As a multidisciplinary program participant, DMH may refer individuals to a DMH contracted provider for behavioral assessment and provision of treatment; DMH then manages and coordinates the provision of health care and related services by the contracted provider. The management and coordination of health care activities of DMH, such as authorization of services, fall under HIPAA's broad definition of "treatment." Thus, DMH contracted providers may disclose PHI to DMH without patient authorization under the treatment exception in cases where DMH's multidisciplinary program activities involve referral of a patient for health care and the coordination or management of health care, rather than the direct provision of health care.

Given that these disclosures are for treatment purposes, the minimum necessary rule does not apply to disclosures to or requests by DMH.

⁵ 45 C.F.R. § 164.502(b).